

## **TESTIMONY IN OPPOSITION TO SB-2**

by

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Due to the extremely short notice of the hearing on this bill, and my need to be in Rice Lake today, I cannot attend today's hearing on SB-2. However, I am submitting this testimony opposing the bill, on behalf of Disability Rights Wisconsin (DRW), Wisconsin's protection and advocacy agency for people with disabilities, in the hope that the committee will take a thoughtful and measured approach to the changes to the Open Enrollment program proposed by this bill.

DRW's first concern is with the assumption in the bill that a non-resident school district will be able to predict in January of the prior school year, how many regular and special education spaces it will have available 8 months later. In today's mobile society, such a prediction is speculative at best. Given that one reason that school districts can deny the admission of non-resident students is the lack of space, SB-2's requirement that this determination be made earlier means that this program will become less available, and be based on speculative information. It simply baffles us as to why this determination needs to be rushed.

Second, DRW is concerned with the delay that the bill calls for in both the application process and the decision process. By delaying these processes, planning for both families and school districts will become far more difficult. We are frequently involved in cases that are resolved early by successful application for open enrollment. Under this bill, this process will now be delayed, and resolution of disputes will perhaps become impossible if these new timelines are put in place. Moreover, since there is no change in the appeal deadlines, appeals to DPI will occur over the summer and may not even be resolved before the school year begins. This will make it very difficult for both school districts and the families if DPI overturns a school district's denial of open enrollment either just before or worse yet, after the school year begins. Once again, we are mystified by what purpose these proposed changes seek to accomplish.

Third, SB-2 requires the student's disciplinary records to be sent to the non-resident school district whether the district requests them (as the statute currently states) or not. Yet, there is nothing in the Open Enrollment law that permits a non-resident school district to deny an open enrollment application based on such records. What, then is the purpose of sending those records? The only purpose that DRW can see is to bias the non-resident school district against the student who wishes to attend school there. It is likely to prompt non-resident schools to come up with subterfuges to deny open enrollment applications illegally, requiring parents to appeal, and then due to the delayed timelines, requiring all parties to wait on pins and needles

until the next school year starts.

Fourth, although SB-2 requires the non-resident school district to provide an estimate of the special education costs for such students, there is nothing in the bill that requires the resident school district to provide the individualized education program (IEP) to the non-resident school district, nor is there anything that requires the parent to consent to such a release. While this provision is easily remedied through an amendment, it is a clear indication of the rushed nature of this bill and the need to take a thoughtful measured approach before voting on it.

In sum, while DRW does not claim that the current Open Enrollment process is perfect, and would be more than willing to participate in a deliberative process to improve it, for the reasons set forth above, SB-2 is deeply flawed and we urge the committee to vote against the bill, or at the very least, to delay a vote until thoughtful amendments can improve the bill.

If you have any questions, feel free to contact me at the number listed on our letterhead.

**Options to Expand Open Enrollment Application Period**  
(Dependent on repeal of VCS wait list)

This proposal expands the open enrollment application period from a 3-week period in February to the 3 months beginning with the 1<sup>st</sup> weekday in February and ending with the last weekday in April. This expansion is made possible by efficiencies gained through the on-line application and reporting as well as compression of some other activities as follows:

1. School boards will be required to set the number of regular education available spaces and special education space criteria at the January school board meeting. Since the statute prescribes how spaces will be filled, it is not necessary to allow time for nonresident school boards to act on individual applications.
2. Resident school boards will be required to send special education and expulsion records when the application is submitted, rather than having to wait for a request from the nonresident school board. (Also, estimates will be able to be submitted electronically, saving another day or so.) [Need to review FERPA issues.]
3. Since the approval/denial date will be pushed back to June, the nonresident district can send the school assignment at the same time as approval.
4. Resident districts may need additional time to review cost estimates, so the resident district denial date is set a week later than the nonresident district approval/denial date. Thus, the majority of approvals and denials are not held up pending consideration of a relatively small number of applications.

As a result, the application period is extended by over two months, while the total process from beginning to end takes only a week longer.

<b>Activity</b>	<b>Current schedule</b>	<b>Possible change</b>
Nonresident school boards approve regular education spaces by grade and approve criteria for special education space.	No current requirement	January school board meeting (except in 2011 it would be Feb)  (No need for nonresident school boards to act on individual applications)
Parent application period	1 <sup>st</sup> Monday in February to 3 <sup>rd</sup> Friday following 1st Monday in February (§)	First weekday in February to last weekday in April (4:00 pm).
Districts may not act on application until after the 3 <sup>rd</sup> Friday following the 1 <sup>st</sup> Monday		Districts may not act on application before May 1.

Activity	Current schedule	Possible change
Nonresident school district provides copy of application to resident district & DPI (via OPAL)	4 <sup>th</sup> Monday in February (§)	Not needed for applications submitted online. Require nonresident district to enter paper applications by end of the 1 <sup>st</sup> weekday following the end of the application period.
Nonresident district requests special education & expulsion records.	End of February or early March (depending on end of application period)	Resident district required to send special education and expulsion records by 1 <sup>st</sup> Friday following 1 <sup>st</sup> Monday in May.
Resident district provides records (5 days)	March 15 (Adm Rule)	Nonresident district required to send estimate of cost by 3 <sup>rd</sup> Friday following 1 <sup>st</sup> Monday in May. If estimate not received on or before this day, nonresident district may not charge any actual, additional costs (if record received from res district).
Nonresident district sends estimate of special education cost to resident district. School board meetings (many school boards actually approve/deny applications)	Early March and early April	
Notices of approval or denial sent to parent	1 <sup>st</sup> Friday following 1 <sup>st</sup> Monday in April (§)	Nonresident district must approve or deny applications no later than 1 <sup>st</sup> Friday following 1 <sup>st</sup> Monday in June.  Resident district must deny applications no later than 2 <sup>nd</sup> Friday following 1 <sup>st</sup> Monday in June (to allow time to review cost estimates)
School assignment	2 <sup>nd</sup> Friday following 1 <sup>st</sup> Monday in May (§)	Nonresident district send with approval (1 <sup>st</sup> Friday following 1 <sup>st</sup> Monday in June).
Parent must respond	1 <sup>st</sup> Friday following 1 <sup>st</sup> Monday in June . (§)	Last Friday in June
Nonresident district notify resident district of students who plan to attend	June 30	July 7
Appeals	Parents have 30 days to file appeal	None. However, later approval/denial date may make it more difficult to resolve all

Activity	Current schedule	Possible change
		appeals before the beginning of the school year.
Wait list	Last day to offer space from wait list is 3 <sup>rd</sup> Friday in Aug (Adm Rule)	<p>May offer space from wait list until 11 days before 3<sup>rd</sup> Friday in September (to allow parent 10 days to respond).</p> <p>May offer space up to day before 3<sup>rd</sup> Friday in September as long as student is in attendance on or before the 3<sup>rd</sup> Friday in September .</p> <p>Student may accept space from wait list even if student already attended resident school district. However, may not accept space from wait list if student has attended another nonresident district.</p>

